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Note verbale dated 11 October 2016 from the Permanent Mission of Ireland to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Ireland to the United Nations wishes to submit for the attention of the Committee and Panel of Experts the attached 90-day report on the implementation of Security Council resolution 2270 (2016) (see annex).

The present report is submitted pursuant to paragraph 40 of resolution 2270 (2016), and covers the steps taken by the Government of Ireland to implement paragraphs 6 to 15, 17 to 23 and 27 to 39 of the resolution.

Ireland is committed to fulfilling its responsibilities under the Security Council resolutions on the Democratic People's Republic of Korea and adopts a cross-sectoral, whole-of-government approach in order to do so.

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Annex to the note verbale dated 11 October 2016 from the Permanent Mission of Ireland to the United Nations addressed to the Chair of the Committee

Report of Ireland on the implementation of Security Council resolution 2270 (2016)

Introduction

The Permanent Mission of Ireland to the United Nations presents its compliments to the Chair of the Committee established through resolution 1718 (2006) and has the honour to submit its report, pursuant to paragraph 40 of resolution 2270 (2016), on the steps taken by the Government of Ireland to implement paragraphs 6 to 15, 17 to 23 and 27 to 39 of the resolution.

Ireland is committed to fulfilling its responsibilities under the Security Council resolutions on the Democratic People's Republic of Korea and adopts a cross-sectoral, whole-of-government approach in order to do so. There are three competent authorities (the Department of Foreign Affairs and Trade, the Department of Jobs, Enterprise and Innovation and the Central Bank of Ireland) designated in relation to sanctions. There is also a cross-departmental international sanctions committee that monitors, reviews and coordinates the implementation, administration and exchange of information on international sanctions regimes in Ireland.

Measures taken to implement sanctions under resolution 2270 (2016)

Ireland and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed in Security Council resolution 2270 (2016) by taking the following common measures:[1]

- Council Decision 2016/476/CFSP of 31 March 2016[2]

  The Council Decision sets out the commitment of the European Union to implementing all the measures contained in resolution 2270 (2016) and provides the basis for European Union-specific accompanying measures within the scope of the resolution, notably:

  - The designation of additional persons and entities (travel ban and asset freeze);
  - The extension of export and import prohibitions to any item (except food or medicine) that could contribute to the development of the operational capabilities of the armed forces of the Democratic People's Republic of Korea;

[1] All common measures are published in the Official Journal of the European Union, which can be consulted at: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/advanced-search-form.html?qid=1456325860845&action=update (search form).

[2] Official Journal of the European Union L 85, 1 April 2016, p. 38.

- The requirement to expel diplomats of the Democratic People's Republic of Korea engaged in illicit activities, such diplomats working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provision of Security Council resolutions, including exemptions;

- The requirement to expel foreign nationals involved in illicit activities, which targets foreign nationals working on behalf or at the direction of a designated individual or entity, or of an individual or entities assisting in the evasion of sanctions or violating the provisions of Security Council resolutions;

- The requirement to close offices of designated entities and expel representatives whereby States members shall close the representative offices of designated entities and prohibit such entities, as well as individuals or entities acting for or on their behalf, from participating in joint ventures or any other business arrangements;

- The ban on specialized training, including teaching or training in specific fields;

- The requirement to inspect cargo from the Democratic People's Republic of Korea within or transiting free trade zones or that is being transported on Democratic People's Republic of Korea-flagged aircraft or maritime vessels. In addition, the obligation to inspect is irrespective of any reasonable grounds to suspect that the cargo contains prohibited items;

- The requirement to ban the Democratic People's Republic of Korea from chartering vessels or aircraft and to de-register vessels, including a prohibition to provide crew services;

- The requirement to prohibit nationals from operating Democratic People's Republic of Korea vessels and vessels flagged by the Democratic People's Republic of Korea;

- The ban on flights of any plane suspected of carrying contraband, with the exception of those landing for inspection;

- The prohibition of entry into ports of any vessel controlled by a designated entity or suspected of engaging in illicit activity;

- The ban on the export of any item that could contribute to the nuclear or ballistic programmes of the Democratic People's Republic of Korea or other weapons of mass destruction programmes;

- The ban on exports from the Democratic People's Republic of Korea of specified minerals, such as coal, iron, iron ore, gold, titanium ore, vanadium ore and rare earth minerals;

- The ban on the export of aviation fuel to the Democratic People's Republic of Korea, such as aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel;

- An asset freeze on government entities or the Workers' Party of Korea associated with illegal programmes or on individuals or entities acting on their behalf;
- The prohibition of the opening and operation of new branches, subsidiaries and representative offices of banks from the Democratic People's Republic of Korea;
- The obligation to close existing branches, subsidiaries or representative offices of banks from the Democratic People's Republic of Korea within 90 days;
- The obligation to close existing representative offices, subsidiaries or banking accounts in the Democratic People's Republic of Korea within 90 days;
- The extension of the prohibition on providing financial support for trade with the Democratic People's Republic of Korea or private financial support for trade if such financial support could contribute to the illicit activities of the Democratic People's Republic of Korea.

• Commission Implementing Regulation (EU) 2016/315 of 4 March 2016, amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[3]

In addition to the Council Decision, the Council adopted a regulation implementing article 6 (2) of the Council Regulation (EC) No. 329/2007 on restrictive measures against the Democratic People's Republic of Korea in order to legally enforce the asset freeze for the new European Union autonomous designations of persons and entities.

• Council Regulation (EU) 2016/682 of 29 April 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[4] gives effect to the measures provided in Council Decision 2016/476/CFSP of 31 March 2016[5]

• Council Decision (CFSP) 2016/785 of 19 May 2016 amending Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea[6]

• Commission Implementing Regulation (EU) 2016/780 of 19 May 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[7]

• Council Decision (CFSP) 2016/849 of 27 May 2016 amending Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea[8]

[3] Official Journal of the European Union L 60, 5 March 2016, p. 62.
[4] Official Journal of the European Union L 117, 3 May 2016, p. 1.
[5] Official Journal of the European Union L 85, 1 April 2016, p. 38.
[6] Official Journal of the European Union L 131, 20 May 2016, p. 73.
[7] Official Journal of the European Union L 131, 20 May 2016, p. 55.
[8] Official Journal of the European Union L 141, 28 May 2016, p. 79.

- Council Regulation (EU) 2016/841 of 27 May 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[9]
- Council Regulation (EU) 2016/1333 of 4 August 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[10]
- Council Decision (CFSP) 2016/1341 of 4 August 2016 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea[11]

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union. Under regulation (EC) No. 329/2007 States members are required to determine the penalties applicable to infringements of their provisions. The penalties determined by Ireland are set out in the European Communities Act 1972, as amended, which provides for penalties of up to €500,000 and for a term of imprisonment not greater than three years. More particularly, Statutory Instrument No. 79/2016-European Union (Restrictive Measures concerning the Democratic People's Republic of Korea) Regulations 2016, provides that a person who contravenes Council Regulation (EC) No. 329/2007 commits an offence. In addition, the Financial Transfers Act 1992, as applied by Statutory Instrument No. 547/2013 Financial Transfers (Democratic People's Republic of Korea) (Prohibition) Order 2013, provides for penalties of up to €10,000,000 or twice the amount of the capital in respect of which the offence was committed, whichever is the greater or, to a term of imprisonment not exceeding 10 years, or to both.

In addition to the joint implementation of the restrictive measures against the Democratic People's Republic of Korea imposed by Security Council resolution 2270 (2016) as outlined above, Ireland has taken the following measures to ensure compliance.

Embargoed goods, items and technical assistance

With regard to paragraphs 6 to 9, 27 to 31 and 39 of Security Council resolution 2270 (2016), Ireland has taken the following measures.

The primary piece of national legislation on export control is the Control of Exports Act 2008, which provides a framework for the adoption of ministerial orders controlling exports of certain classes of goods and technology, and for the control of certain classes of technical assistance and brokering activities.

Under Irish law, military export licences must be sought in respect of the goods and technology, and any components thereof, listed in the annex to the Control of Exports (Goods and Technology) Order, Statutory Instrument No. 216 of 2012 which reflects the Common Military List of the European Union.

[9] Official Journal of the European Union L 141, 28 May 2016, p. 36.
[10] Official Journal of the European Union L 212, 5 August 2016, p. 1.
[11] Official Journal of the European Union L 212, 5 August 2016, p. 116.

The Control of Exports (Brokering Activities) Order 2011, Statutory Instrument No. 86 of 2011, was made pursuant to section 3 of the Control of Exports Act 2008. It imposes a licensing requirement in respect of brokering activities relating to goods and technology on the Common Military List of the European Union as set out in the schedule to the Order.

Council Regulation (EC) 428/2009, which sets up a community regime for the control of exports, transfer, brokering and transit of dual-use items (the "Dual-Use Regulation"), is the main piece of legislation governing the export of dual-use items from Europe.

Together with Council Decision 2016/849/CFSP,[12] this provides the basis for enforcement of the arms embargo against the Democratic People's Republic of Korea and the ban on related brokering services.

In addition to the licensing requirements imposed by that legislation, all exports of goods to and imports of goods from the Democratic People's Republic of Korea are reported by Revenue Customs Service to the Licensing Unit of the Department of Jobs, Enterprise and Innovation. Those imports and exports are reviewed by the Licensing Unit against European Union sanctions and will in such instances include contacting the importer or exporter for further information. Those goods cannot clear customs until the Licensing Unit responds on the matter.

Customs

With regard to paragraph 18 of Security Council resolution 2270 (2016), Ireland has taken the following measures.

The Office of the Revenue Commissioners enforces the relevant prohibitions on the export of arms, related materials and other goods prohibited under Council Regulation (EC) 329/2007 (as amended) to the Democratic People's Republic of Korea as specified in Security Council resolution 2270 (2016). Through its Customs Service, the Office profiles all imports into and exports out of Ireland to identify and interdict cargo transiting through Ireland to or from the Democratic People's Republic of Korea.

Financial and asset freezes

With regard to paragraphs 10, 12, 15, 23 and 32 to 38 of Security Council resolution 2270 (2016), in addition to the European Union's legal measures and the criminal penalties in Irish law outlined above, the website of the Central Bank of Ireland provides details on the requirements imposed on and the actions to be taken by the Irish financial sector whenever entities are listed under the Democratic People's Republic of Korea regime, stating that all of those entities' assets must be frozen and reported to the Central Bank. Following the adoption of additional Security Council resolutions in 2016, the Central Bank has recirculated information relating to the sanctions concerning the Democratic People's Republic of Korea.

[12] Official Journal of the European Union L 141, 28 May 2016, p. 79.

Travel restrictions

With regard to paragraphs 11 and 14 of Security Council resolution 2270 (2016), Ireland has taken the following measures.

Visa applications for travel to Ireland by foreign nationals are subject to individual assessment by officials from the Irish National Immigration Service, which has been informed of the restrictions contained in paragraphs 11 and 14 of resolution 2270 (2016) and has committed to enforcing them.

In addition, details of persons subject to United Nations resolutions relating to travel restrictions are relayed to An Garda Síochána in the first instance, who then liaise with the authorities at ports of entry. Details are uploaded to the Garda Border Information System, which includes details of such persons for Irish authorities and, in the context of the protection of the Common Travel Area, authorities of the United Kingdom also. A person on such a list may be refused entry to the State in accordance with section 4 (3) (j) of the Immigration Act 2004, on national security or public policy grounds.

Specialized teaching or training

Visa applications for foreign nationals to teach or undergo training in Ireland are subject to individual assessment by officials from the Irish National Immigration Service, which has been informed of and has committed to enforcing the restrictions contained in paragraph 17 of Security Council resolution 2270 (2016).

Transportation

With regard to the measures concerning maritime restrictions referred to in paragraphs 19, 20 and 22 of Security Council resolution 2270 (2016), given the typical volume of traffic, Ireland assesses that those measures are likely to have very little, if any, impact on Irish vessels, maritime services or workers. Measures in place include: (a) confirmation by the Minister of Transport, Tourism and Sport that no ministerial approval should be granted to Irish persons seeking to register a ship in the Democratic People's Republic of Korea; (b) the instructions to registrars of shipping to refuse any applications to register a ship in Ireland where there is a controlling Democratic People's Republic of Korea entity; and (c) the provision by the Maritime Survey Office of ship arrival information to the Revenue Customs Service via the SafeSeasIreland portal, which facilitates the identification of vessels subject to financial-related controls required in the resolution. The Department of Foreign Affairs and Trade has notified the Revenue Customs Service that the vessels specified in annex III to the resolution are economic assets subject to the asset freeze imposed in paragraph 8 (d) of resolution 1718 (2006) and the Revenue Customs Service is empowered to arrest the vessels, should they land in Ireland.

It is not considered that supplementary controls or provisions are necessary for enforcement at this time.

With regard to paragraphs 19 and 21 of Security Council resolution 2270 (2016), there are no scheduled air services between Ireland and the Democratic People's Republic of Korea. Ireland is unaware of any instances where aircraft

believed to be transporting embargoed goods have sought permission to take off from, land in or overfly Ireland.

Diplomatic relations

While cognizant of paragraph 13 of Security Council resolution 2270 (2016), the Democratic People's Republic of Korea does not have an embassy resident in Ireland.